

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

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SUBCHAPTER I—GENERAL PROVISIONS

§ 1. Regulations by Secretary of the Army for navigation of waters generally

It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding \$500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

Any regulations prescribed by the Secretary of the Army in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations.

(Aug. 18, 1894, ch. 299, § 4, 28 Stat. 362; June 13, 1902, ch. 1079, §§ 6, 11, 32 Stat. 374; Aug. 8, 1917, ch. 49, § 7, 40 Stat. 266; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

The first paragraph of this section is from section 4 of act Aug. 18, 1894, popularly known as the "River and Harbor Act of 1894", as amended.

As originally enacted, said section 4 made it the duty of the Secretary of War to prescribe rules and regulations for the use, administration, and navigation of any or all canals and similar works of navigation owned, operated, or maintained by the United States, and provided for the posting of such regulations and the punishment of violations thereof.

Said section 4 was amended by section 11 of act June 13, 1902, principally by adding to the original section provisions authorizing the Secretary also to prescribe regulations to govern the speed and movement of vessels and other water craft in any public navigable channel which had been improved under authority of Congress, whenever in his judgment such regulations were necessary to protect such improved channel from injury or to prevent interference with the operations of the United States in improving navigable waters or injury to any plant that might be employed in such operations.

Section 4 was also amended by section 7 of act Aug. 8, 1917, to read as set forth in the first paragraph hereof.

The last paragraph of this section is from section 6 of act June 13, 1902. Said section 6 is also the source of the last proviso in section 499 of this title.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

RULES AND REGULATIONS

Administrative provisions covering definitions which the Coast Guard uses to examine waters to determine whether the Coast Guard has jurisdiction on those waters under particular laws of the United States are set out in chapter I, subchapter A, part 2, of Title 33, Navigation and Navigable Waters, in the Code of Federal Regulations. Such part 2, consisting of sections 2.01-1 to 2.10-10, sets out definitions of jurisdictional terms and provides for the availability of jurisdictional decisions.

§ 2. Regulations for navigation of South and Southwest Passes of Mississippi River; penalties

The Secretary of the Army is authorized to make such rules and regulations for the navigation of the South and Southwest Passes of the Mississippi River as to him shall seem necessary or expedient for the purpose of preventing any obstruction to the channels through said South and Southwest Passes and any injury to the works therein constructed. The term "South and Southwest Passes", as employed in this section, shall be construed as embracing the entire extent of channel in each case, between the upper ends of the works at the head of the pass and the outer or sea ends of the jetties at the entrance from the Gulf of Mexico; and any willful violation of any rule or regulation made by the Secretary of the Army in pursuance of this section shall be deemed a misdemeanor, for which the owner or owners, agent or agents, master or pilot of the vessel so offending shall be separately or collectively responsible, and on conviction

tion thereof shall be punished by a fine of not less than \$100, nor exceeding \$500, or by imprisonment for not exceeding three months, or by both fine and imprisonment, at the discretion of the court.

(Mar. 3, 1909, ch. 264, § 5, 35 Stat. 818; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

These provisions were part of section 5 of act Mar. 3, 1909, popularly known as the "River and Harbor Appropriation Act of 1909".

These provisions superseded previous similar provisions relating to the navigation of the South Pass only, contained in act Aug. 11, 1888, ch. 860, § 5, 25 Stat. 424, amended by act Sept. 19, 1890, ch. 907, § 3, 26 Stat. 452.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 3. Regulations to prevent injuries from target practice

Authority to adopt regulations—In the interest of the national defense, and for the better protection of life and property on the navigable waters of the United States, the Secretary of the Army is authorized and empowered to prescribe such regulations as he may deem best for the use and navigation of any portion or area of the navigable waters of the United States or waters under the jurisdiction of the United States endangered or likely to be endangered by Artillery fire in target practice or otherwise, or by the proving operations of the Government ordnance proving grounds at Sandy Hook, New Jersey, or at any Government ordnance proving ground that may be established elsewhere on or near such waters, and of any portion or area of said waters occupied by submarine mines, mine fields, submarine cables, or other material and accessories pertaining to seacoast fortifications, or by any plant or facility engaged in the execution of any public project of river and harbor improvement; and the said Secretary shall have like power to regulate the transportation of explosives upon any of said waters: *Provided*, That the authority conferred shall be so exercised as not unreasonably to interfere with or restrict the food fishing industry, and the regulations prescribed in pursuance hereof shall provide for the use of such waters by food fishermen operating under permits granted by the Department of the Army.

Detail of vessels to enforce regulations—To enforce the regulations prescribed pursuant to this section, the Secretary of the Army, may detail any public vessel in the service of the Department of the Army, or, upon the request of the Secretary of the Army, the head of any other department may enforce, and the head of any such department is authorized to enforce, such regulations by means of any public vessel of such department.

Posting and violation of regulations—The regulations made by the Secretary of the Army pursu-

ant to this section shall be posted in conspicuous and appropriate places, designated by him, for the information of the public; and every person who and every corporation which shall willfully violate any regulations made by the said Secretary pursuant to this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not exceeding \$500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

Venue and jurisdiction of offenses; procedure—Offenses against the provisions of this section, or any regulation made pursuant thereto, committed in any Territory or other place subject to the jurisdiction of the United States where there is no court having general jurisdiction of crimes against the United States, shall be cognizable in any court of such place or Territory having original jurisdiction of criminal cases in the place or Territory in which the offense has been committed, with the same right of appeal in all cases as is given in other criminal cases where imprisonment not exceeding six months forms a part of the penalty, and jurisdiction is conferred upon such courts and such courts shall exercise the same for such purposes; and in case any such offense be committed beyond the territorial jurisdiction of any court having jurisdiction thereof, the offense shall be deemed and held to have been committed within the jurisdiction in which the offender may be found or into which he is first brought, and shall be tried by the court having jurisdiction thereof.

(July 9, 1918, ch. 143, subch. XIX, §§ 1–4, 40 Stat. 892, 893; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Undesignated pars. 1 to 4 of this section are from sections 1 to 4, respectively, of act July 9, 1918, popularly known as the "Army Appropriation Act of 1919".

Undesignated pars. 1 and 2 of this section superseded similar provisions of act Aug. 8, 1917, ch. 49, § 8, 40 Stat. 266.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

Coast Artillery changed to Artillery under authority of section 306(a) of act June 28, 1950, ch. 383, title III, 64 Stat. 269. Section 306(a) of act June 28, 1950 was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in section 3063 continued the Artillery as a basic branch of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(55)], July 22, 1949.

§ 4. Water gauges on Mississippi River and tributaries

The Secretary of the Army is authorized and directed to have water gauges established, and daily observations made of the rise and fall of the Mississippi River and its tributaries.

For the purpose of securing the uninterrupted gauging of the waters of the Mississippi River and its tributaries, as provided for in this section, upon the application of the Chief of Engineers, the Secretary of the Army is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury for such sums as may be necessary to do such work, not to exceed in the aggregate for each year the sum of \$9,600.

(R.S. § 5252; Aug. 11, 1888, ch. 860, § 6, 25 Stat. 424; June 13, 1902, ch. 1079, § 9, 32 Stat. 374; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967.)

CODIFICATION

R.S. § 5252 derived from Res. Feb. 21, 1871, No. 40, 16 Stat. 598.

The first paragraph of this section is from R.S. § 5252, which, as enacted, authorized and directed the establishment of water gauges and the making of daily observations at or in the vicinity of certain enumerated places, and at such other places as the Secretary of War might deem advisable. It further provided that the expenditure should be made from the appropriation for the improvement of rivers and harbors and that the annual cost of the observations should not exceed \$5,000. These latter provisions were apparently modified by section 6 of act Aug. 11, 1888, as amended by section 9 of act June 13, 1902, which was substantially the second paragraph of this section. As originally enacted, section 6 of act Aug. 11, 1888, provided for the gauging of the waters of the Lower Mississippi and tributaries, and limited the cost for each year to the amount appropriated in the act for such purpose.

AMENDMENTS

1954—Act Aug. 30, 1954, repealed proviso requiring that an itemized statement of expenses incurred in gauging waters of the Mississippi River and its tributaries, as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Gauging waters of the Mississippi and its tributaries (fiscal year) (8-961.54)" effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 5. Abolition of tolls on Government canals, canalized rivers, etc.; expense of operation, repairs to and reconstruction of canals, etc.; Panama Canal excepted; levies by non-Federal interest

(a) No tolls or operating charges whatever shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, now belonging to the United States or that may be hereafter acquired or constructed; and for the purpose of preserving and continuing the use and navigation of said canals and other public works without interruption, the Secretary of the Army, upon the recommendation of the Chief of Engineers, United States Army, is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury to pay the actual expenses of operating, maintaining, and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its entire reconstruction is absolutely essential to its efficient and economical maintenance and operation as herein provided for, the reconstruction thereof may include such modifications in plan and location as may be necessary to provide adequate facilities for existing navigation: *Provided further*, That the modifications are necessary to make the reconstructed work conform to similar works previously authorized by Congress and forming a part of the same improvement, and that such modifications shall be considered and approved by the Board of Engineers for Rivers and Harbors and be recommended by the Chief of Engineers before the work of reconstruction is commenced: *And provided further*, That nothing contained in this section shall be held to apply to the Panama Canal.

(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

(1) fees charged under section 2236 of this title;

(2) reasonable fees charged on a fair and equitable basis that—

(A) are used solely to pay the cost of a service to the vessel or water craft;

(B) enhance the safety and efficiency of interstate and foreign commerce; and

(C) do not impose more than a small burden on interstate or foreign commerce; or

(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution.

(July 5, 1884, ch. 229, § 4, 23 Stat. 147; Mar. 3, 1909, ch. 264, § 6, 35 Stat. 818; July 26, 1947, ch. 343, title

II, §205(a), 61 Stat. 501; Aug. 30, 1954, ch. 1076, §1(15), 68 Stat. 967; Pub. L. 107-295, title IV, §445, Nov. 25, 2002, 116 Stat. 2133; Pub. L. 108-176, title VIII, §829(a), Dec. 12, 2003, 117 Stat. 2597.)

CODIFICATION

Section is from act July 5, 1884, popularly known as the “Rivers and Harbors Appropriation Act of 1884”.

The section, as originally enacted, was as follows:

“No tolls or operating charges whatsoever shall be levied or collected upon any vessel or vessels, dredges, or other passing water-craft through any canal or other work for the improvement of navigation belonging to the United States; and for the purpose of preserving and continuing the use and navigation of said canals, rivers, and other public works without interruption, the Secretary of War, upon the application of the chief engineer in charge of said works, is hereby authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury to pay the actual expenses of operating and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated: *Provided, however*, That an itemized statement of said expenses shall accompany the annual report of the chief of engineers.”

It was amended by act March 3, 1909, to read substantially as set forth above.

AMENDMENTS

2003—Subsec. (b)(3). Pub. L. 108-176 added par. (3).

2002—Pub. L. 107-295 designated existing provisions as subsec. (a) and added subsec. (b).

1954—Act Aug. 30, 1954, repealed last proviso requiring that an itemized statement of expenses incurred in operating, maintaining, keeping in repair, and reconstructing locks, canals, etc., other than the Panama Canal, as provided in this section, should accompany the annual report of the Chief of Engineers.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-176, title VIII, §829(b), Dec. 12, 2003, 117 Stat. 2597, provided that: “The amendment made by subsection (a) [amending this section] is effective on and after November 25, 2002.”

TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title “Operating and care of canals and other works of navigation (8x881)” effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 6. Free passage to harbor of Michigan City, Indiana

The passage of vessels to and from the harbor of Michigan City, in Indiana, shall be free and not subject to toll or charge.

(R.S. §5247.)

CODIFICATION

R.S. §5247 derived from acts June 23, 1866, ch. 138, §1, 14 Stat. 73; Mar. 2, 1867, ch. 144, §2, 14 Stat. 421.

§ 7. Use of Government iron pier in Delaware Bay

The Government iron pier in Delaware Bay near Lewes, Delaware, shall be open to public use under regulations to be prescribed by the Secretary of the Army.

(July 27, 1916, ch. 260, §1, 39 Stat. 394; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

Section is from act July 27, 1916, popularly known as the “Rivers and Harbors Appropriation Act of 1916”.

A further provision of act July 27, 1916, repealed act Mar. 3, 1891, ch. 542, 26 Stat. 969, which authorized a transfer of the iron pier to the Treasury Department.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 8. Toll free rivers in Alabama

The Tennessee, Coosa, Cahawba, and Black Warrior Rivers, within the State of Alabama, shall be forever free from toll for all property belonging to the United States, and for all persons in their service, and for all citizens of the United States, except as to such tolls as may be allowed by Act of Congress.

(R.S. §5244.)

CODIFICATION

R.S. §5244 derived from act May 23, 1828, ch. 75, §7, 4 Stat. 290.

Another R.S. 5244 is classified to section 43 of Title 12, Banks and Banking.

§ 9. Des Moines River as toll free

The Des Moines River shall forever remain free from any toll, or other charge whatever, for any property of the United States, or persons in their service, passing along the same.

(R.S. §5246.)

CODIFICATION

R.S. §5246 derived from acts Aug. 8, 1846, ch. 103, §3, 9 Stat. 78; Jan. 20, 1870, ch. 7, 16 Stat. 61.

§ 10. Waters in Louisiana Purchase as public highways

All the navigable rivers and waters in the former Territories of Orleans and Louisiana shall be and forever remain public highways.

(R.S. §5251.)

CODIFICATION

R.S. §5251 derived from act Mar. 3, 1811, ch. 46, §12, 2 Stat. 606.

§ 11. Authority for compact between Middle Northwest States as to jurisdiction of offenses committed on boundary waters

The consent of the Congress is given to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of them, by such agreement or compact as they may deem desirable or necessary, or as may be evidenced by legislative acts enacted by any two or more of said States, not in conflict with the Constitution of the United States or any law thereof, to determine and settle the jurisdiction to be exercised by said States, respectively, over offenses arising out of the violation of the laws of any of said States upon any of the waters forming the boundary lines between any two or more of said States, or waters through which such boundary line extends, and that the consent of the Congress be, and the same is, given to the concurrent jurisdiction agreed to by the States of Minnesota and South Dakota, as evidenced by the act of the Legislature of the State of Minnesota approved April 20, 1917, and the act of the Legislature of the State of South Dakota approved February 13, 1917.

(Mar. 4, 1921, ch. 176, 41 Stat. 1447.)

CODIFICATION

This section is from a resolution entitled a "Joint Resolution giving consent of the Congress of the United States to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of said States, to agree upon the jurisdiction to be exercised by said States over boundary waters between any two or more of said States".

§ 12. Port Arthur Ship Canal

After there shall be conveyed to the United States, free of cost, a valid title to the line of water communication between Taylors Bayou and Sabine Pass, in the State of Texas, known as the Port Arthur Ship Canal, together with a valid title to the turning basin as existing June 19, 1906, and to the artificial slip on which the lumber dock of the Port Arthur Canal and Dock Company is built, the said waterways shall thereupon become free public waters of the United States, and be subject to the laws enacted by Congress for the maintenance, preservation, protection, and regulation of navigable waters: *Provided*, That the company or corporation conveying title to said canal as aforesaid shall also convey to the United States, free of cost, the fee to a strip of land one hundred and fifty feet wide along the westerly margin of the canal, except that where the right of way of the Southern Pacific Railroad Company prevents the transfer of such strip of land along the westerly margin of said canal there shall be conveyed such strip on the easterly margin thereof as may be necessary to make up such one hundred and fifty feet of width, with the reservation that until Congress shall have authorized and provided for the enlargement and widening of said canal the said company or corporation, its successors or assigns, shall have the right to

control, occupy, and use the said strip of land and every part thereof in the same manner and to the same extent as before the execution and delivery of the conveyance, and also the right to transfer, lease, sell, quitclaim, or otherwise dispose of said property and every part thereof, subject to the grant made to the United States. The charges for the use of said docks and wharves shall be just and reasonable and shall not be greater than charges for similar services at other ports of the United States on the Gulf of Mexico.

(June 19, 1906, ch. 3436, §1, 34 Stat. 302.)

CODIFICATION

This section is from a proviso following provisions establishing an additional collection district in the State of Texas to be known as the district of Sabine; the establishment of the said district being conditioned on the making of the conveyance referred to in this section.

Further provisions of the said proviso authorizing the Secretary of War to accept the said waterways as the property of the United States, and directing that the Act take effect only when the requirements of the section be fully complied with to the satisfaction of the Secretary of War, have been omitted as executed and obsolete.

SUBCHAPTER II—WATERS DECLARED NONNAVIGABLE: CHANGE OF NAME

§ 21. Bayou Cocodrie, Louisiana

Bayou Cocodrie, from its source to its junction with Bayou Chicot, in the State of Louisiana, is declared to be not a navigable water of the United States within the meaning of the laws enacted by the Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 25, 1921, ch. 71, §§1, 2, 41 Stat. 1145.)

CODIFICATION

The first sentence hereof is section 1 and the second sentence section 2 of act Feb. 25, 1921, entitled "An Act to declare Bayou Cocodrie nonnavigable from its source to its junction with Bayou Chicot".

§ 22. Bayou Meto, Arkansas

The Bayou Meto, in the State of Arkansas, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

(Aug. 8, 1917, ch. 49, §16, 40 Stat. 268.)

§ 23. Bear Creek, Mississippi

Bear Creek in Humphreys, Leflore, and Sunflower Counties, in the State of Mississippi, is declared to be a nonnavigable stream within the meaning of the Constitution and the laws of the United States.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(Mar. 3, 1923, ch. 229, §§1, 2, 42 Stat. 1442.)

CODIFICATION

The first sentence hereof is section 1 and the last sentence section 2 of act Mar. 3, 1923, entitled "An Act declaring Bear Creek in Humphreys, Leflore, and Sunflower counties, Mississippi, to be a nonnavigable stream".

§ 24. Big Tarkio River, Missouri

The Big Tarkio River, in the counties of Holt and Atchison, in the State of Missouri, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 15, 1910, ch. 33, §§ 1, 2, 36 Stat. 194.)

CODIFICATION

The first sentence hereof is section 1 and the last sentence section 2 of act Feb. 15, 1910, entitled "An Act to declare Big Tarkio River, in Holt and Atchison counties, Missouri, nonnavigable".

§ 25. Cache River, Arkansas

The Cache River in the State of Arkansas is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States. This provision shall become void after one year from July 27, 1916, unless within said period the Legislature of Arkansas shall pass an act expressly approving this declaration. The right of the Congress to alter, amend, or repeal this section is expressly reserved.

(July 27, 1916, ch. 260, § 1, 39 Stat. 399.)

CODIFICATION

Section was a provision of section 1 of act July 27, 1916, popularly known as the "Rivers and Harbors Appropriation Act of 1916".

APPROVAL OF DECLARATION

See Arkansas Laws 1917, ch. 2, act 406.

§ 26. Calumet River, Cook County, Illinois, old channel

The portion of the old channel of the Calumet River in the northwest quarter of section thirty, township thirty-seven north, range fifteen east, of the third principal meridian, in Cook County, Illinois, which lies outside of the new channel lines as established by the United States and shown on "Map of the Calumet River, Illinois, from Lake Michigan to Calumet Lake, to accompany report of W. G. Ewing, United States attorney to the Attorney-General, respecting cession of right of way for improvement of said river under Act of Congress approved July fifth, eighteen hundred and eighty-four," is hereby abandoned as navigable water from and after the time that a navigable channel shall be cut through said quarter section within the new channel lines of the river as shown on the said map.

The portion of the old channel of the Calumet River in the north quarter of fractional section 7, township 37 north, range 15 east, of the third principal meridian, south of the Indian boundary line, in Cook County, Illinois, which lies outside of the new channel lines as established by the United States and shown on "map of the Calumet River, Illinois, from Lake Michigan to Calumet Lake, to accompany report of W. G. Ewing, United States attorney, to the Attorney General, respecting cession of right of way for improvement of said river, under Act of Congress approved July 5, 1884", is abandoned as navigable water.

(Apr. 21, 1904, ch. 1409, 33 Stat. 239, 240; Feb. 27, 1915, ch. 68, 38 Stat. 817.)

REFERENCES IN TEXT

Act of Congress approved July 5, 1884, referred to in text, is act July 5, 1884, ch. 229, 23 Stat. 143, which provided in part for the appropriation of \$50,000 for the continuing improvement of the Calumet River, provided that no part of such appropriation be expended until the right of way should have been conveyed to the United States, free from expense, and the United States released from liability to adjacent property owners, to the satisfaction of the Secretary of War.

§ 26a. Additional portion of Calumet River, old channel, abandoned as navigable water

The portion of the old channel of the Calumet River in sections eighteen and nineteen, township thirty-seven north, range fifteen east, of the third principal meridian, in Cook County, Illinois, which lies outside of the new channel lines established by the United States and shown on the map referred to in section 26 of this title, and which lies outside of the exterior limits of the turning basin to be established on said Calumet River in said sections, is abandoned as navigable water of the United States from and after the time when the United States shall have secured title to the land necessary for the establishment of the turning basin at some point, to be approved by the Chief of Engineers, between One hundred and thirteenth Street and One hundred and seventeenth Street in the city of Chicago.

(Mar. 4, 1913, ch. 144, § 1, 37 Stat. 816.)

§ 26b. Portion of Calumet River, Chicago, as non-navigable stream

The portion of the Calumet River, in the city of Chicago, county of Cook, State of Illinois, lying between the intersections of this river with the two lines described below, is a nonnavigable stream within the meaning of the Constitution and laws of the United States:

Beginning at a point on the south line of the north half of section 36, township 37 north, range 14 east, of the third principal meridian, one thousand eight hundred and seventy-three and seven-hundredths feet west of the east line of said section; thence northwesterly on a straight line to a point three thousand two hundred and eighty feet west of the east line and seven hundred and eighty-five feet south of the north line of said section; and

Beginning at a point five hundred and eighty-five feet east of the west line and seven hundred and thirty-two feet north of the south line of section 31, township 37 north, range 15 east, of the third principal meridian; thence north forty-six degrees and thirty minutes east along a straight line to the easterly water's edge of said river.

The right to alter, amend, or repeal this section is expressly reserved.

(June 14, 1937, ch. 338, §§ 2, 3, 50 Stat. 258, 259.)

§ 27. Chicago River at Chicago, Illinois

All of that portion of the West Fork of the South Branch of the Chicago River in the county of Cook and State of Illinois, extending west

from the west line of the collateral channel of the sanitary district of Chicago, in the northwest quarter of section 36, township 39 north, range 13 east, of the third principal meridian, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States. The right of Congress to alter, amend, or repeal this provision is expressly reserved.

The provisions of sections 401 and 403 of this title shall not apply to that portion of the west arm of the South Fork of the South Branch of the Chicago River, lying between the east line of Ashland Avenue and the north line of Thirty-ninth Street, in the city of Chicago, Illinois, as the same now exists or may hereafter be extended. All rights, authority, or control over that part of the Chicago River possessed or assumed by the United States are relinquished and abandoned, and all rights, authority, or control over the same that were possessed by the State of Illinois are fully restored to said State.

As soon as the city of Chicago, or any other governmental agency or any corporation thereunto duly authorized by the Secretary of the Army, shall have constructed, after June 7, 1924, a new channel for the South Branch of the Chicago River between West Polk Street and West Nineteenth Street in said city of Chicago, then, and in that event, so much of the channel of the South Branch of the Chicago River as shall be superseded and replaced by said new channel in accordance with the permit of the Secretary of the Army shall be discontinued and abandoned.

(Jan. 24, 1923, ch. 33, §§1, 2, 42 Stat. 1171; Feb. 27, 1923, ch. 142, 42 Stat. 1323; June 7, 1924, ch. 337, 43 Stat. 646; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

The two sentences comprising the first paragraph of this section are, respectively, sections 1 and 2 of act Jan. 24, 1923.

The second paragraph of this section is from act Feb. 27, 1923.

The last paragraph of this section is from act June 7, 1924.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 27a. Chicago River, West Fork of South Branch

That portion of the West Fork of the South Branch of the Chicago River in Cook County, Illinois, lying between the west line (produced north) of the Collateral Channel of the Sanitary District of Chicago, in the northwest quarter of section 36, township 39 north, range 13 east, third principal meridian, and a line one thousand three hundred feet east of and parallel to the west line of section 30 (section line in South Western Avenue), township 39 north, range 13 east, third principal meridian, in the city of Chicago, Illinois, as the same now exists or may

hereafter be extended, is declared to be a non-navigable stream within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 30, 1935, ch. 831, §10, 49 Stat. 1048.)

§ 27b. Chicago River, West arm of South Fork of South Branch

The portion of the west arm of the South Fork of the South Branch of the Chicago River, as established by the ordinance of the city of Chicago on July 17, 1911, in the southwest quarter of section 32, township 39 north, range 14 east of the third principal meridian, in the city of Chicago, county of Cook, State of Illinois, lying westerly of a straight line drawn from a point in south dock line of the said west arm 203.94 feet westerly of the point of intersection of the south dock line of the said west arm with the west dock line of the east arm of the South Fork of the South Branch of the Chicago River as established by said city of Chicago ordinance of July 17, 1911, measured along the south dock line of said west arm, thence to a point in the north dock line of the said west arm said point being 278 feet westerly of the intersection of the north dock line of the said west arm with the west dock line of the South Fork of the South Branch of the Chicago River as established by said city of Chicago ordinance of July 17, 1911, measured along the north dock line of said west arm of the South Fork of the South Branch of the Chicago River, is declared to be and is on and after September 1, 1959 to be regarded as a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States: *Provided*, That plans for a suitable bulkhead to retain any fill to be placed in the waterway shall be submitted to and approved by the Corps of Engineers, United States Army, prior to the placing of such fill.

(Pub. L. 86-218, Sept. 1, 1959, 73 Stat. 448.)

§ 28. Crum River; old channel at mouth, Delaware Bay

After the channel of the Crum River where the same empties into the Delaware River has been changed, diverted, and straightened under the authority given to Alba B. Johnson and Samuel M. Vauclain and the Baldwin Locomotive Works by Act July 27, 1916, chapter 260, the said Crum River, as so straightened, shall be a public navigable stream, and the course and channel of the said river, as it existed July 27, 1916, from the right-of-way of the Philadelphia and Reading Railway Company to the low-water line in the Delaware River shall be abandoned and vacated when the above-mentioned new channel shall have been completed to a depth of four feet at mean low water, with a bottom width of sixty-two feet and width of one hundred feet at mean low-water level: *Provided*, That the Government shall have such right, title, and interest in and to the bed of said new channel as will assure the public the right to the perpetual use of said channel for all the purposes of navigation and commerce.

(July 27, 1916, ch. 260, §1, 39 Stat. 393.)

REFERENCES IN TEXT

Act July 27, 1916, chapter 260, referred to in text, is act July 27, 1916, ch. 260, 39 Stat. 393, which is classified to sections 7, 25, 28, 38, 424, and 648 to 650 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from a provision of section 1 of act July 27, 1916, popularly known as the “Rivers and Harbors Appropriation Act of 1916”.

The portion of that section authorizing the changing, diverting, and straightening of the channel of the river has been omitted as temporary and executed.

§ 29. Cuivre River, Missouri

Cuivre River, in the counties of Lincoln and Saint Charles, in the State of Missouri, being the dividing line, is declared not to be a navigable stream, and shall be so treated by the Secretary of the Army and all other authorities.

(Mar. 23, 1900, ch. 88, 31 Stat. 50; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 29a. East River, Wisconsin

All of that portion of the East River, in the county of Brown, State of Wisconsin, extending from Baird Street, in the city of Green Bay, east and south is declared to be a nonnavigable stream within the meaning of the Constitution and Laws of the United States of America.

The right of Congress to alter, amend or repeal this section is expressly reserved.

(Aug. 30, 1935, ch. 831, § 9, 49 Stat. 1048.)

§ 30. Grand River, Missouri, above Brunswick

Grand River in the State of Missouri above the city of Brunswick, in the county of Chariton in said State, is declared to be not a navigable stream and shall be so treated by the Secretary of the Army and by all other authorities.

(Feb. 15, 1905, ch. 574, 33 Stat. 715; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 31. Iowa River, Iowa, above Toolsboro

So much of the Iowa River within the State of Iowa, as lies north of the town of Wapello, and so much of the said river within the State of Iowa, as lies between the town of Toolsboro and

the town of Wapello, in the county of Louisa, shall not be deemed a navigable river or public highway, but dams and bridges may be constructed across it.

(R.S. § 5248; Aug. 18, 1894, ch. 299, § 1, 28 Stat. 356.)

CODIFICATION

R.S. § 5248 derived from Res. July 13, 1868, No. 55, 15 Stat. 257; act May 6, 1870, ch. 92, 16 Stat. 121.

The portion of this section relating to the Iowa river north of the town of Wapello is from R.S. § 5248.

The remainder the section, relating to so much of the river as lies between Toolsboro and Wapello, is from act Aug. 18, 1894.

§ 32. Lake George, Mississippi

Lake George, in Yazoo County, in the State of Mississippi, is declared to be not a navigable water of the United States within the meaning of the laws enacted by the Congress for the preservation and protection of such waters.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(May 24, 1922, ch. 198, §§ 1, 2, 42 Stat. 552.)

CODIFICATION

The two sentences comprising this section are respectively sections 1 and 2 of act May 24, 1922, entitled “An act declaring Lake George, Yazoo County, Mississippi, to be a nonnavigable stream”.

§ 33. Little River, Arkansas, from Big Lake to Marked Tree

Little River, from Big Lake in Mississippi County to Marked Tree in Poinsett County, Arkansas, is declared to be not a navigable waterway of the United States within the meaning of the laws enacted by Congress for the protection of such waterways.

(Mar. 2, 1919, ch. 95, § 4, 40 Stat. 1287.)

CODIFICATION

Section is from section 4 of act Mar. 2, 1919, popularly known as the “Rivers and Harbors Appropriation Act of 1919”.

§ 34. Mill Slough, Oregon

Mill Slough, a tidal tributary of Coos Bay, lying within the limits of the city of Marshfield, State of Oregon, is declared to be not a navigable waterway of the United States, within the meaning of the laws enacted by Congress for the preservation and protection of such waterways, and the consent of Congress is given to the filling in of said slough by the said city of Marshfield.

(Oct. 23, 1913, ch. 33, 38 Stat. 233.)

§ 35. Mississippi River, West Channel, opposite La Crosse, Wisconsin

The branch of the Mississippi River flowing between Grand Island and the mainland opposite the city of La Crosse, State of Wisconsin, and known as the West Channel, is declared unnavigable, and the said city of La Crosse is relieved of the necessity of maintaining a draw or pontoon bridge over said West Channel.

(Feb. 23, 1901, ch. 470, 31 Stat. 804.)

§ 36. Mosquito Creek, South Carolina

Mosquito Creek, in Colleton County, South Carolina, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

(Aug. 8, 1917, ch. 49, §15, 40 Stat. 268.)

§ 37. Nodaway River, Missouri

Nodaway River, in the counties of Andrew, Holt, and Nodaway, in the State of Missouri, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 15, 1910, ch. 32, §§1, 2, 36 Stat. 194.)

§ 38. Oklawaha River, Florida; Kyle and Young Canal and "Morrison Landing extension" substituted

Upon the conveyance to the United States, free of cost, title to the land occupied by what is known as the "Kyle and Young Canal" and the "Morrison Landing extension" of the same, on the Oklawaha River, in the State of Florida, together with title to a strip of land on the east side of said canal of such width as in the judgment of the Secretary of the Army may be required for the future widening of said canal and extension by the United States, the said canal and extension shall become a free public waterway of the United States in place of the natural bed of the river.

(July 27, 1916, ch. 260, §1, 39 Stat. 396; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 39. Ollala Slough, Oregon

All of that portion of Ollala Slough in Lincoln County, Oregon, above a point where a line that is one hundred and twenty rods south and running east and west and parallel with the section line between sections 8 and 17 in township 11 south, range 10 west of the Willamette meridian, crosses said stream, is declared to be a nonnavigable stream.

(Feb. 26, 1917, ch. 119, 39 Stat. 937.)

§ 40. One Hundred and Two River, Missouri

One Hundred and Two River south of the north boundary line of Andrew County, Missouri, as now located, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(Feb. 15, 1910, ch. 31, §§1, 2, 36 Stat. 194.)

§ 41. Osage River, Missouri

The Osage River in the State of Missouri above the point where the south line of sections 15 and 16 in township 40 north, of range 22 west, of the fifth principal meridian, and in the county of Benton, State of Missouri, crosses said river, is declared not to be a navigable stream, and shall be so treated by the Secretary of the Army and by all other authorities.

(Mar. 4, 1904, ch. 393, 33 Stat. 58; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

This section superseded act June 24, 1902, ch. 1154, 32 Stat. 398, which declared that the Osage River above the point where the dividing line between the counties of Benton and Saint Clair crosses the river should not be a navigable stream.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 42. Platte River, Missouri

The Platte River in the State of Missouri is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States, and jurisdiction over said river is declared to be vested in the State of Missouri.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(Feb. 16, 1921, ch. 62, §§1, 2, 41 Stat. 1105.)

CODIFICATION

The two sentences of this section are, respectively, from sections 1 and 2 of act Feb. 16, 1921, entitled "An Act declaring the Platte River to be a nonnavigable stream".

§ 43. Saint Marys River, Ohio and Indiana

Saint Marys River, Ohio and Indiana, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

(Aug. 8, 1917, ch. 49, §17, 40 Stat. 268.)

§ 44. Sturgeon Bay, Illinois

So much of the west fork of Sturgeon Bay within the county of Mercer and State of Illinois as lies west of the line between the east half and the west half of the east half of section 25, in township 14 north, range 6 west of the fourth principal meridian, and so much of the east fork of said Sturgeon Bay as lies north of the north line of section 30, in township 14 north, range 5 west of the fourth principal meridian, shall not be deemed navigable waters of the United States.

(Feb. 7, 1907, No. 13, 34 Stat. 1421.)

§ 45. Swan Creek, Toledo, Ohio

Swan Creek, a stream lying within the limits of the city of Toledo, State of Ohio, is declared

to be not a navigable waterway of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waterways, and the consent of Congress is given for the filling in of said creek by the local authorities.

(Mar. 4, 1915, ch. 142, § 13, 38 Stat. 1055.)

CODIFICATION

Section is from act Mar. 4, 1915, popularly known as the "Rivers and Harbors Appropriation Act of 1915".

§ 46. Tchula Lake, Mississippi

Tchula Lake, in Holmes County, in the State of Mississippi, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(July 1, 1922, ch. 266, §§ 1, 2, 42 Stat. 816.)

CODIFICATION

The two sentences comprising this section are, respectively, sections 1 and 2 of act July 1, 1922, entitled "An act declaring Tchula Lake, Holmes County, Mississippi, to be a nonnavigable stream".

§ 47. Eagle Lake, Louisiana-Mississippi

Eagle Lake, which lies partly within the limits of the State of Mississippi, in Warren County, and partly within the limits of the State of Louisiana, in Madison Parish, is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(June 2, 1926, ch. 445, §§ 1, 2, 44 Stat. 681.)

§ 48. Noxubee River, Mississippi

That portion of the Noxubee River in Noxubee County, in the State of Mississippi is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right of Congress to amend or repeal this section is expressly reserved.

(Feb. 24, 1934, ch. 25, §§ 1, 2, 48 Stat. 356.)

§ 49. Bayou Saint John in New Orleans

Bayou Saint John, in the city of New Orleans, Louisiana, is declared to be not a navigable water of the United States within the meaning of the laws enacted by Congress for the preservation and protection of such waters.

The right to alter, amend, or repeal this section is expressly reserved.

(June 5, 1936, ch. 530, §§ 1, 2, 49 Stat. 1484.)

§ 50. Turtle Bay and Turtle Bayou, Texas

Turtle Bay and Turtle Bayou, in Chambers County, in the State of Texas, are declared to be nonnavigable waterways within the meaning of the Constitution and laws of the United States of America.

The existing project for Turtle Bayou, Texas, authorized by the Rivers and Harbors Act approved June 25, 1910 (Act June 25, 1910, ch. 382, 36 Stat. 630), is abandoned.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(Mar. 10, 1937, ch. 36, §§ 1-3, 50 Stat. 28.)

REFERENCES IN TEXT

The Rivers and Harbors Act approved June 25, 1910, referred to in text, is act June 25, 1910, ch. 382, 36 Stat. 630, as amended, which is classified to sections 546, 564, and 643 of this title. For complete classification of this Act to the Code, see Tables.

§ 51. Scajaquada Creek, New York

Scajaquada Creek, Erie County, New York, is declared to be nonnavigable east of a line one hundred and thirty feet west of the west line of Niagara Street, city of Buffalo, county of Erie, New York, within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(May 14, 1937, ch. 183, §§ 1, 2, 50 Stat. 165.)

§ 52. Park River, Connecticut

The Park River, a minor tributary of the Connecticut River, located in Hartford County, Connecticut, is declared to be a nonnavigable waterway within the meaning of the Constitution and laws of the United States of America.

The right of Congress to alter, amend, or repeal this section is expressly reserved.

(May 24, 1937, ch. 246, §§ 1, 2, 50 Stat. 201.)

§ 53. Benton Harbor Canal, Michigan

The Benton Harbor Canal at and above the west line of Ninth Street, in the city of Benton Harbor and State of Michigan, is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(June 2, 1937, ch. 288, §§ 1-3, 50 Stat. 243.)

§ 53a. Additional portion of Benton Harbor Canal, abandoned as navigable water

The Benton Harbor Canal, from the west line of Ninth Street extended northerly to the west line of Riverview Drive extended northerly in the city of Benton Harbor and State of Michigan, be, and the same is hereby, declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States.

(Pub. L. 88-88, § 1, Aug. 5, 1963, 77 Stat. 118.)

§ 54. Burr Creek, Bridgeport, Connecticut

That portion of Burr Creek in the city of Bridgeport, Connecticut, lying north of a line across the creek beginning at the point of intersection of the south side of Yacht Street extended and the west harbor line of the harbor lines established by the Secretary of War December 9, 1924, thence south eighty-five degrees forty-six minutes seventeen seconds east to the east harbor line of said creek, is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States.

Any project heretofore authorized by any Act of Congress, insofar as such project relates to

the above described portion of Burr Creek in the city of Bridgeport, Connecticut, is abandoned.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 12, 1937, ch. 607, 50 Stat. 632; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 55. Bayou Savage (or Chantilly) in New Orleans

Bayou Savage, also styled Bayou Chantilly, in the city of New Orleans, Louisiana, is declared to be a nonnavigable waterway within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 16, 1937, ch. 650, 50 Stat. 649.)

§ 56. Fort Point Channel and South Bay, Boston, Massachusetts

The portion of the tidewaters in the waterway in which is located Fort Point Channel and South Bay in the city of Boston, Massachusetts, lying above the easterly side of the highway bridge over Fort Point Channel at Dorchester Avenue in the city of Boston is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(May 13, 1955, ch. 37, 69 Stat. 48.)

§ 57. Pike Creek, Wisconsin

Pike Creek, in the State of Wisconsin, above the easterly side of the highway bridge at Sixth Avenue in the city of Kenosha is declared to be a nonnavigable stream within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(July 26, 1955, ch. 377, 69 Stat. 373.)

§ 58. Acushnet River section of New Bedford and Fairhaven Harbor, Massachusetts

The portion of the waterway in the city of New Bedford and the towns of Fairhaven and Acushnet lying north of the Coggeshall Street Bridge (north 41 degrees 31 minutes 00 seconds), is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States. Any project heretofore authorized by any Act of Congress, insofar as such project relates to the above-described portions of the Acushnet River section of New Bedford and Fairhaven Harbor, is hereby abandoned.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 3, 1955, ch. 495, 69 Stat. 443.)

§ 59. West River in West Haven, Connecticut

The portion of the waterway in which is located the West River in the town of West Haven, Connecticut, and the city of New Haven, Connecticut, lying northerly of a line extending north 85 degrees 54 minutes 43.5 seconds east, from a point (1,158.535 feet from the most westerly corner of the existing bulkhead and pier line) whose coordinates in the Corps of Engineers Harbor Line System are north 4,616.76 and west 9,450.80, is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States.

The line hereinbefore described shall be established as a combined pierhead and bulkhead line of the West River.

Any project heretofore authorized by an Act of Congress, insofar as such project relates to the above-described portion of the West River, is hereby abandoned.

The right to alter, amend, or repeal this section is expressly reserved.

(Aug. 9, 1955, ch. 649, 69 Stat. 576.)

§ 59a. Back Cove, Portland, Maine

(a) Portion declared nonnavigable

That portion of Back Cove at Portland, Maine, lying southerly of a line across the twelve-foot Federal project channel in Back Cove twenty-five hundred feet upstream from the Tukey Bridge, to the head of Back Cove, is declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States.

(b) Portion abandoned

That portion of the twelve-foot Federal project channel in Back Cove lying southerly of a line across the channel twenty-five hundred feet upstream from the Tukey Bridge, to the head of Back Cove, a distance of approximately thirty-five hundred feet, is abandoned.

(c) Preservation of right to alter, amend or repeal section

The right to alter, amend, or repeal this section is expressly reserved.

(Pub. L. 85-126, Aug. 13, 1957, 71 Stat. 344.)

§ 59b. Bayous Terrebonne and LeCarpe, Louisiana

Bayou Terrebonne west of Barrow Street and Bayou LeCarpe west of the Intracoastal Waterway in the city of Houma, State of Louisiana, are declared to be not navigable waters of the United States within the meaning of the Constitution and laws of the United States.

The right to alter, amend, or repeal this section is expressly reserved.

(Pub. L. 86-226, §§2, 3, Sept. 8, 1959, 73 Stat. 455.)

§ 59c. East River, New York

That portion of the East River, in New York County, State of New York, lying between the south line of East Seventeenth Street, extended eastwardly, the United States pierhead line as it

existed on July 1, 1965, and the south line of East Thirtieth Street, extended eastwardly, is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States.

(Pub. L. 89-298, title III, §307, Oct. 27, 1965, 79 Stat. 1094.)

§ 59c-1. East and Hudson Rivers, New York

Those portions of the East and Hudson Rivers in New York County, State of New York, lying shoreward of a line within the United States Pierhead Line as it exists on August 13, 1968, and bounded on the north by the north side of Spring Street extended westerly and the south side of Robert F. Wagner, Senior Place extended eastwardly, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled. Plans for bulkheading and filling shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section.

(Pub. L. 90-483, title I, §113, Aug. 13, 1968, 82 Stat. 736.)

§ 59c-2. East River, New York

If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared non-navigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the East River in New York County, State of New York, bounded and described as follows are hereby declared to be not navigable waters of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof or the erection of permanent pile-supported structures thereon: That portion of the East River in New York County, State of New York, lying shoreward of a line with the United States pierhead line as it exists on March 7, 1974, bounded on the north by the south side of Rutgers Slip extended easterly, and bounded on the south by the southeasterly border of Battery Park at a point adjacent to the westerly end of South Street extended south by southwest, is hereby declared to be non-navigable waters of the United States. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures

shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 93-251, title I, §51, Mar. 7, 1974, 88 Stat. 26.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59c-3. Queens County, New York

(a) Description of nonnavigable area

Subject to subsections (b) and (c) of this section, the area of Long Island City, Queens County, New York, that—

(1) is not submerged;

(2) as of October 12, 1996, lies between the southerly high water line of Anable Basin (also known as the “11th Street Basin”) and the northerly high water line of Newtown Creek; and

(3) extends from the high water line (as of October 12, 1996) of the East River to the original high water line of the East River;

is declared to be nonnavigable waters of the United States.

(b) Requirement that area be improved

(1) In general

The declaration of nonnavigability under subsection (a) of this section shall apply only to those portions of the area described in subsection (a) of this section that are, or will be, bulkheaded, filled, or otherwise occupied by permanent structures or other permanent physical improvements (including parkland).

(2) Applicability of Federal law

Improvements described in paragraph (1) shall be subject to applicable Federal laws, including—

(A) sections 401 and 403 of this title;

(B) section 1344 of this title;

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) Expiration date

The declaration of nonnavigability under subsection (a) of this section shall expire with respect to a portion of the area described in subsection (a) of this section, if the portion—

(1) is not bulkheaded, filled, or otherwise occupied by a permanent structure or other permanent physical improvement (including parkland) in accordance with subsection (b) of this section by the date that is 20 years after October 12, 1996; or

(2) requires an improvement described in subsection (b)(2) of this section that is subject to a permit under an applicable Federal law, and the improvement is not commenced by the date that is 5 years after the date of issuance of the permit.

(Pub. L. 104-303, title V, §556, Oct. 12, 1996, 110 Stat. 3782.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2)(C), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59d. River Raisin, Michigan

The old channel of the River Raisin in Monroe County, Michigan, lying between the Monroe Harbor range front light and Raisin Point, its entrance into Lake Erie, is declared to be not a navigable stream of the United States within the meaning of the Constitution and the laws of the United States, and the consent of Congress is hereby given for the filling in of the old channel by the riparian owners on such channel.

(Pub. L. 89-298, title III, § 308, Oct. 27, 1965, 79 Stat. 1094.)

§ 59e. Bayou Lafourche, Louisiana

Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, Parish of Lafourche, State of Louisiana, and the head of the bayou at its junction with the Mississippi River levee at the city of Donaldsonville, Parish of Ascension, State of Louisiana, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the laws of the United States. The existing project for Bayou Lafourche, Louisiana, authorized by the Acts of August 30, 1935 (49 Stat. 1028) and July 14, 1960 (74 Stat. 480) is hereby deauthorized in the reach of Bayou Lafourche herein declared nonnavigable.

The right to alter, amend, or repeal this section is hereby expressly reserved.

(Pub. L. 90-149, Nov. 22, 1967, 81 Stat. 507.)

REFERENCES IN TEXT

The provisions of the Acts of August 30, 1935 (49 Stat. 1028) and July 14, 1960 (74 Stat. 480), referred to in text, authorizing the Bayou Lafourche, Louisiana, project, are not classified to the Code.

PORTION OF BAYOU LAFOURCHE DECLARED TO BE
NAVIGABLE WATERWAY

Pub. L. 101-595, title III, § 314, Nov. 16, 1990, 104 Stat. 2987, provided that: "Bayou Lafourche, in the State of Louisiana, between the Percy Brown Road (Hwy 648), city of Thibodaux, parish of Lafourche, and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is declared to be navigable waterway of the United States under chapter 11 of title 33, United States Code."

§ 59e-1. Additional portion of Bayou Lafourche, Louisiana

Bayou Lafourche, in the State of Louisiana, between Canal Boulevard, city of Thibodaux, parish of Lafourche and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is hereby declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(Pub. L. 99-307, § 5, May 19, 1986, 100 Stat. 447.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as

amended, which is classified generally to subchapter III (§ 525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

§ 59f. Boston Inner Harbor and Fort Point Channel, Massachusetts

That portion of Boston Inner Harbor and Fort Point Channel in Suffolk County, Commonwealth of Massachusetts, lying within the following described area is hereby declared to be not a navigable water of the United States within the meaning of the laws of the United States: Beginning at the intersection of the northeasterly sideline of Northern Avenue and the westerly United States Pierhead Line of the Fort Point Channel and running northwesterly by the northwesterly sideline of Northern Avenue to the westerly sideline of Atlantic Avenue; thence turning and running northerly and northwesterly by the westerly sideline of Atlantic Avenue and of Commercial Street to the southeasterly sideline of Hanover Street; thence turning and running northeasterly by the southeasterly sideline of Hanover Street to the southwesterly property line of the United States Coast Guard Base; thence turning and running southeasterly by the southwesterly property line of the United States Coast Guard Base to the southeasterly property line of the United States Coast Guard Base; thence turning and running northeasterly by the southeasterly property line of the United States Coast Guard Base extended to the United States Pierhead Line; thence turning and running southeasterly, southerly and southwesterly by the United States Pierhead Line, to the point of beginning.

(Pub. L. 90-312, May 18, 1968, 82 Stat. 125.)

§ 59g. Steele and Washington Bayous, and Lake Washington, Mississippi

Steele Bayou, in Warren, Issaquena, Sharkey, and Washington Counties, Mississippi, Washington Bayou, in Issaquena and Washington Counties, Mississippi, and Lake Washington, in Washington County, Mississippi, are hereby declared to be nonnavigable within the meaning of the laws of the United States.

(Pub. L. 90-483, title I, § 108(a), Aug. 13, 1968, 82 Stat. 735.)

§ 59h. Northern Embarcadero area, San Francisco, California

That portion of the Northern Embarcadero area, beginning at the intersection of the northwesterly line of Bryant Street with the southwesterly line of Spear Street, which intersection lies on the line of jurisdiction of the San Francisco Port Authority; following thence westerly and northerly along said line of jurisdiction as described in the State of California Harbor and Navigation Code Section 1770, as amended in 1961, to its intersection with the easterly line of Van Ness Avenue produced northerly; thence northerly along said easterly line of Van Ness Avenue produced to its intersection with the United States Government pier-head line; thence following said pier-head line easterly and southerly to its intersection with the northwesterly line of Bryant Street produced northeast-

erly; thence southwesterly along said northwesterly line of Bryant Street produced to the point of beginning, is hereby declared to be nonnavigable waters within the meaning of the laws of the United States, and the consent of Congress is hereby given for the filling in of all or any part of the described area. This declaration shall apply only to portions of the above-described area which are bulkheaded and filled or are occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers, on the basis of engineering studies to determine the location and structural stability of the bulkheading and filling and permanent pile-supported structures in order to preserve and maintain the remaining navigable waterway. Local interests shall reimburse the Federal Government for any engineering costs incurred under this section.

(Pub. L. 90-483, title I, §114, Aug. 13, 1968, 82 Stat. 736.)

REFERENCES IN TEXT

Section 1770 of the State of California Harbor and Navigation Code was repealed by Cal. Stats. 1970, ch. 385, p. 799, §2.

§ 59i. Patapsco River, Maryland

That portion of the Northwest Branch of the Patapsco River located generally south of Pratt Street, east of Light Street, north of Key Highway, in the city of Baltimore, State of Maryland, and being more particularly described as all of that portion of the Northwest Branch of the Patapsco River lying west of a series of lines beginning at the point formed by the intersection of the south side of Pratt Street, as now laid out, and the west side of Pier 3 and running thence binding on the west side of Pier 3, south 04 degrees 19 minutes 47 seconds east 726.59 feet to the southwest corner of Pier 3; thence crossing the Northwest Branch of the Patapsco River, south 23 degrees 01 minutes 15 seconds west 855.36 feet to the point formed by the intersection of the existing pierhead and bulkhead line and the east side of Battery Avenue, last said point of intersection being the end of the first line of the fourth parcel of land conveyed by J. and F. Realty, Incorporated to Allegheny Pepsi-Cola Bottling Company by deed dated December 22, 1965, and recorded among the Land Record of Baltimore City in Liber J. F. C. numbered 2006 folio 345, the location of said pierhead and bulkhead line is based upon the Corps of Engineers, Baltimore District, Baltimore, Maryland, coordinate value for station LIV of said pierhead and bulkhead line, the coordinate value as referred to the Lambert grid plane coordinate system for the State of Maryland of said station LIV being east 2,111,161.40, north 527,709.27 and thence binding on the east side of Battery Avenue, south 03 degrees 09 minutes 07 seconds east 568 feet, more or less, to intersect the north side of Key Highway as now laid out and located is hereby declared to be not a navigable stream of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given for the filling in of all or any part of the described area.

(Pub. L. 90-483, title I, §115, Aug. 13, 1968, 82 Stat. 736.)

§ 59j. Delaware River, Philadelphia County, Pennsylvania; permanent structures

That portion of the Delaware River in Philadelphia County, Commonwealth of Pennsylvania, lying between all that certain lot or piece of ground situate in the second and fifth wards of the city of Philadelphia described as follows:

Beginning at a point on the easterly side of Delaware Avenue (variable width) said side being the bulkhead line of the Delaware River (approved by the Secretary of War on September 10, 1940), at the distance of 1,833.652 feet from an angle point on the easterly side of said Delaware Avenue south of Washington Avenue;

thence extending along the easterly side of said Delaware Avenue the following courses and distances, (1) north 0 degree 45 minutes 33.2 seconds west 2,524.698 feet to a point; (2) north 9 degrees 36 minutes 25 seconds east, 2,168.160 feet to a point; (3) north 13 degrees 26 minutes 45.8 seconds east, 2,039.270 feet to a point; (4) north 20 degrees 12 minutes 52.4 seconds east, 35.180 feet to an angle point in Delaware Avenue; thence continuing north 20 degrees 12 minutes 52.4 seconds east along the said bulkhead line, the distance of 574.970 feet to a point on the south house line of Callowhill Street produced;

thence extending along the south house line of Callowhill Street produced south 80 degrees 47 minutes 30.6 seconds east, the distance of 523.908 feet to a point on the pierhead line of the Delaware River (approved by the Secretary of War on September 10, 1940);

thence extending along the said pierhead line the following courses and distances, (1) south 17 degrees 52 minutes 48.5 seconds west, 605.262 feet to a point; (2) south 14 degrees 14 minutes 14.7 seconds west, 1,372.530 feet to a point; (3) south 10 degrees 37 minutes 35.3 seconds west, 1,252.160 feet to a point; (4) south 8 degrees 23 minutes 50.4 seconds west, 1,450.250 feet to a point; (5) south 2 degrees 22 minutes 45.9 seconds west, 1,221.670 feet to a point; (6) south 1 degree 4 minutes 36 seconds east, 1,468.775 feet to a point on the north house line of Catherine Street extended, thence extending north 76 degrees 56 minutes 29.2 seconds west, the distance of 555.911 feet to the first mentioned point and place of beginning is hereby declared not to be a navigable water of the United States within the meaning of the Constitution and laws of the United States, and the Consent of Congress is hereby given, for the filling or erection of permanent structures in all or any part of the described area.

(Pub. L. 92-605, §1, Oct. 31, 1972, 86 Stat. 1493.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

PERMANENT STRUCTURES IN ABOVE-DESCRIBED AREA;
APPROVAL OF PLANS

Section 2 of Pub. L. 92-605 provided that: "This declaration [this section] shall apply only to portions of the above-described area which are filled or occupied by permanent structures. No such filling or erection of structures in the above-described area shall be commenced until the plans therefor have been approved by the Secretary of the Army who shall, prior to granting such approval, give consideration to all factors affecting the general public interest and the impact of the proposed work on the environment."

§ 59j-1. Declaration of nonnavigability for portions of the Delaware River

(a) Area to be declared non-navigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States:

- (1) LIBERTY LANDING. [Omitted]
- (2) MARINA TOWERS AND WORLD TRADE CENTER—PIER 25 NORTH. [Omitted]
- (3) MARINE TRADE CENTER—PIER 24 NORTH. [Omitted]
- (4) NATIONAL SUGAR COMPANY "SUGAR HOUSE". [Omitted]
- (5) RIVERCENTER. [Omitted]

(b) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(c) Expiration date

If, 20 years from November 17, 1988, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) of this section is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

(Pub. L. 100-676, § 38, Nov. 17, 1988, 102 Stat. 4032.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

The text of the boundary descriptions contained in pars. (1) to (5) of subsec. (a), which is not set out in the Code, appears at 102 Stat. 4032 to 4038.

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 100-676, set out as a note under section 2201 of this title.

§ 59k. Wicomico River, Maryland

(a) If the Secretary of the Army acting through the Chief of Engineers, finds that the proposed project in Salisbury, Maryland, to be undertaken at the locations to be declared non-navigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structures, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the South Prong of the Wicomico River in Wicomico County, State of Maryland, bounded and described as follows, are declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given, consistent with subsection (b) of this section, to the filling in of a part thereof or the erection of permanent pile-supported structures thereon: That portion of the South Prong of the Wicomico River in Salisbury, Maryland, bounded on the east by the west side of United States Route 13; on the west by the west side of the Mill Street Bridge; on the south by a line five feet landward from the present water's edge at high tide extending the entire length of the South Prong from the east boundary at United States Route 13 to the west boundary at the Mill Street Bridge; and on the north by a line five feet landward from the present water's edge at high tide extending the entire length of the South Prong from the east boundary at United States Route 13 to the west boundary at the Mill Street Bridge.

(b) This declaration shall apply only to the portions of the areas described in subsection (a) of this section which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Such bulkheaded and filled areas or areas occupied by permanent pile-supported structures shall not reduce the existing width of the Wicomico River to less than sixty feet and a minimum depth of five feet shall be maintained within such sixty-foot width of the Wicomico River. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 93-251, title I, § 97, Mar. 7, 1974, 88 Stat. 40.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat.

852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59I. Nonapplicability of prohibitions and provisions for review and approval concerning wharves and piers

The prohibitions and provisions for review and approval concerning wharves and piers in waters of the United States as set forth in sections 403 and 565 of this title shall not apply to any body of water located entirely within one State which is, or could be, considered to be a navigable body of water of the United States solely on the basis of historical use in interstate commerce.

(Pub. L. 94-587, § 154, Oct. 22, 1976, 90 Stat. 2932.)

§ 59m. Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York

For the purposes of section 403 of this title the following bodies of water are declared nonnavigable: Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York.

(Pub. L. 94-587, § 162, Oct. 22, 1976, 90 Stat. 2934.)

CODIFICATION

“Section 403 of this title” substituted in text for “section 10 of the Act of March 3, 1899 (30 Stat. 1151) (33 U.S.C. 401)” as the probable intent of Congress in that section 10 of said act is set out as section 403 of this title while section 401 of this title is based on section 9 of the act of Mar. 3, 1899.

§ 59n. Hudson River, Hudson County, New Jersey

(a) If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then that portion of the Hudson River in Hudson County, State of New Jersey, bounded and described as follows is hereby declared to be nonnavigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Such portion is in the township of North Bergen in the county of Hudson and State of New Jersey, and is more particularly described as follows: At a point in the easterly right-of-way of New Jersey Shore Line Railroad (formerly New Jersey Junction Railroad) said point being located northerly, measured along said easterly right-of-way, 81.93 feet from Station 54+42.4 as shown on construction drawing dated May 23, 1931, of River Road, filed in the Office of the Hudson County Engineer, Jersey City, New Jersey:

thence (1) northerly and along said easterly right-of-way on a bearing of north 12 degrees

11 minutes 14 seconds east, a distance of 280 feet to a point;

thence (2) south 75 degrees 28 minutes 24 seconds east, a distance of 310 feet to a point;

thence (3) south 17 degrees 15 minutes 41 seconds east, a distance of 101.70 feet to a point;

thence (4) south 62 degrees 18 minutes 12 seconds east a distance of 355.64 feet to a point in the exterior solid fill line of April 7, 1903, and the bulkhead line of April 28, 1904, on the Hudson River;

thence (5) along said exterior solid fill and bulkhead lines south 28 degrees 55 minutes 51 seconds west, a distance of 523 feet to a point in the northerly line of lands now or formerly of New York State Realty and Terminal Company;

thence (6) north 61 degrees 34 minutes 29 seconds west, and along said northerly line of the New York State Realty and Terminal Company, a distance of 590.08 feet to a point in the aforementioned easterly right-of-way of the New Jersey Shore Line Railroad;

thence (7) northerly and along said easterly right-of-way of the New Jersey Shore Line Railroad on a curve to the left a radius of 995.09 feet, an arc length of 170.96 feet to a point therein;

thence (8) northerly, still along the same, on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 81.93 feet to the point and place of beginning.

Said parcel containing 8 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the above-described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 94-587, § 178, Oct. 22, 1976, 90 Stat. 2937.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59n-1. Caven Point, New Jersey

That portion of the Hudson River in the New York Bay consisting of—

(1) all that piece or parcel of land, containing 120.54 acres, situate, lying and being in the city of Jersey City, Hudson County, State of New Jersey, upon or around that certain lot or piece of land known as the Caven Point Area; and

(2) all that piece or parcel of land, containing 18 acres more or less, situate on the northwesterly side of New Jersey State Highway Route 185,

more particularly described in the Congressional Record dated March 11, 1986, pages S2446-2447, is

hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States, except for the purposes of the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.].

(Pub. L. 99-662, title XI, §1118, Nov. 17, 1986, 100 Stat. 4237.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in text, is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

§ 59o. Hackensack River, Hudson County, New Jersey

(a) If the Secretary of the Army, acting through the Chief of Engineers finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway, and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the Hackensack River in Hudson County, State of New Jersey, bounded and described as follows are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Beginning at a point where the southeasterly shoreline (mean high water line) of the Hackensack River intersects the easterly line of the Erie Railroad said point property being 2,015.38 feet northerly along said railroad property from where it intersects the northerly line of the Meadowlands Parkway (100 feet wide) and running from:

thence north 19 degrees 20 minutes 54 seconds west 50.00 feet;

thence north 37 degrees 30 minutes 08 seconds east 615.38 feet;

thence north 03 degrees 02 minutes 56 seconds east, 2,087 feet;

thence north 31 degrees 11 minutes 06 seconds east 577 feet;

thence north 74 degrees 29 minutes 18 seconds east 541.25 feet;

thence south 62 degrees 01 minutes 31 seconds east 400 feet;

thence south 55 degrees 46 minutes 27 seconds east 612.52 feet;

thence south 34 degrees 13 minutes 33 seconds west 517.79 feet;

thence south 55 degrees 46 minutes 27 seconds east 158.81 feet;

thence south 34 degrees 13 minutes 33 seconds west 310 feet;

thence north 55 degrees 26 minutes 27 seconds north 15 feet;

thence south 34 degrees 13 minutes 33 seconds west 592 feet;

thence running in a southwesterly direction along the shoreline (mean high water line) of the Hackensack River, a distance of 2,360 feet being the same more or less to the easterly property line of the Erie Railroad and the point or place of beginning.

Said parcel containing 67.6 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 94-587, §179, Oct. 22, 1976, 90 Stat. 2938.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59p. Kenduskeag Stream, Penobscot County, Maine

The Kenduskeag Stream, a minor tributary of the Penobscot River, located in Penobscot County, in the State of Maine, be, and the same is hereby, declared to be a nonnavigable waterway within the meaning of the Constitution and laws of the United States of America.

(July 11, 1947, ch. 236, §1, 61 Stat. 316.)

§ 59q. Erie Basin, Buffalo Harbor, New York

That portion of the Erie Basin in the Buffalo Harbor lying within the following described area is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States.

(Pub. L. 96-520, §1, Dec. 12, 1980, 94 Stat. 3033.)

REFERENCES IN TEXT

The following described area, referred to in text, refers to the metes and bounds description of that portion of the Erie Basin in the Buffalo Harbor set out in the second paragraph of section 1 of Pub. L. 96-520, Dec. 12, 1980, 94 Stat. 3033-3035, which is not classified to the Code.

§ 59q-1. Union Canal, Outer Buffalo Harbor, New York

The portion of the Union Canal, also known as the Union Ship Canal, an appendage of the Buffalo Outer Harbor, located in the City of Buffalo, State of New York, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525, et seq.) from a point two hundred feet west of Fuhrmann Boulevard east to its terminus.

(Pub. L. 100-202, §101(l) [title III, §332], Dec. 22, 1987, 101 Stat. 1329-358, 1329-384.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

§ 59r. Trent River, Craven County, North Carolina

Those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described in Committee Print 95-56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States.

(Pub. L. 96-520, §3, Dec. 12, 1980, 94 Stat. 3036.)

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 59s. Green River, Washington

For the purposes of section 401 of this title, the portion of the Green River in the State of Washington lying upstream from that State Highway 516 bridge which is in existence on October 26, 1981, is hereby declared to be not a navigable waterway.

(Pub. L. 97-68, §2(b), Oct. 26, 1981, 95 Stat. 1040.)

§ 59t. Burnham Canal, Milwaukee, Wisconsin

The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

(Pub. L. 97-468, title V, §503, Jan. 14, 1983, 96 Stat. 2552.)

§ 59u. Lawyer's Ditch, Essex County, New Jersey

The body of water known as Lawyer's Ditch located at block 5,000 in the city of Newark, county of Essex, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(Pub. L. 99-307, §3, May 19, 1986, 100 Stat. 446.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

§ 59v. Middle River, Maryland

(a) Description

That portion of the waterway in which is located Dark Head Creek in the community of

Middle River, Baltimore County, Maryland, lying northwest of a line extending south 68 degrees 37 minutes 56 seconds west from a point (227.50 feet from the northeast corner of the existing bulkhead and pier line) whose coordinates in the Maryland State Coordinate System are north 544967.24 and east 962701.05 (latitude north 39 degrees 19 minutes 42 seconds and longitude west 76 degrees 25 minutes 29.5 seconds) and thence south 44 degrees 48 minutes 20 seconds west, 350.12 feet to a point (at the southwest corner of the existing bulkhead and pier line) whose coordinates in the Maryland State Coordinate System are north 544635.94 and east 962242.46 (latitude north 39 degrees 19 minutes 39 seconds and longitude west 76 degrees 25 minutes 35.4 seconds), is declared to be a nonnavigable water of the United States for purposes of the navigation servitude.

(b) Pierhead and bulkhead line of Dark Head Creek

The line described in subsection (a) of this section shall be established as a combined pierhead and bulkhead line of Dark Head Creek.

(c) Previously authorized projects

Any project heretofore authorized by any Act of Congress, insofar as such project is within the boundaries of Dark Head Creek as described in subsection (a) of this section, is not authorized after November 17, 1986.

(d) Reservation of rights

The right to alter, amend, or repeal this section is hereby expressly reserved.

(Pub. L. 99-662, title XI, §1160, Nov. 17, 1986, 100 Stat. 4257.)

§ 59w. Norton Basin and Jamaica Bay, New York

The two portions of Norton Basin and Jamaica Bay, New York, that are particularly described in Committee Print 99-58 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States for purposes of the navigation servitude.

(Pub. L. 99-662, title XI, §1168, Nov. 17, 1986, 100 Stat. 4259.)

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 59x. Exemption from General Bridge Act of 1946

(a) Waters declared nonnavigable

The waters described in subsection (b) of this section are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) Waters described

The waters referred to in subsection (a) of this section are a drainage canal which—

- (1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

(Pub. L. 100-448, § 16, Sept. 28, 1988, 102 Stat. 1845; Pub. L. 100-457, title III, § 325, Sept. 30, 1988, 102 Stat. 2150.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in subsec. (a), is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

CODIFICATION

Pub. L. 100-448 and Pub. L. 100-457 enacted identical sections.

§ 59y. Declaration of nonnavigability for portions of Coney Island Creek and Gravesend Bay, New York

(a) Area to be declared non-navigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Coney Island Creek and Gravesend Bay, New York, described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of such Creek and Bay, bounded and described as follows, are declared to be non-navigable waters of the United States:

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giolorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; north 55 degrees 00 minutes 29 seconds west, 183.10 feet; north 41 degrees 47 minutes 04 seconds west, 315.16 feet;

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2,665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degree 19 minutes 35 seconds west and along the United States Bulkhead line 1,138.50 feet to the intersection of the

westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2,320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4,124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn. The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(c) Expiration date

If, 20 years from November 17, 1988, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) of this section is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

(Pub. L. 100-676, § 39, Nov. 17, 1988, 102 Stat. 4039.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 100-676, set out as a note under section 2201 of this title.

§ 59z. Declaration of nonnavigability of bodies of water in Ridgefield, New Jersey

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which have their mouths at the Hackensack River at 40 degrees 49 minutes 58 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46

seconds north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgely, County of Bergen, New Jersey, which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 401 of this title.

(Pub. L. 100-676, § 54, Nov. 17, 1988, 102 Stat. 4046.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

§ 59aa. Nonnavigability of Wisconsin River

The portion of the Wisconsin River above the hydroelectric dam at Prairie du Sac, Wisconsin, is hereby declared to be a nonnavigable waterway of the United States for purposes of title 46, including but not limited to the provisions of such title relating to vessel inspection and vessel licensure, and the other maritime laws of the United States.

(Pub. L. 101-595, title III, §318, Nov. 16, 1990, 104 Stat. 2988.)

§ 59bb. Declaration of nonnavigability for portions of Lake Erie

(a) Area to be declared nonnavigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of Lake Erie described in Committee Print 101-48 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of Lake Erie, bounded and described in such Committee print, are declared to be nonnavigable waters of the United States.

(b) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply only to those parts of the areas described in the Committee print referred to in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(c) Expiration date

If, 20 years from November 28, 1990, any area or part thereof described in the Committee print

referred to in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitting¹ in subsection (b) of this section is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 101-640, title IV, §408, Nov. 28, 1990, 104 Stat. 4647.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

§ 59bb-1. Declaration of nonnavigability for Lake Erie, New York

(a) Area to be declared nonnavigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portion of Erie County, New York, described in subsection (b) of this section, are not in the public interest then, subject to subsection (c) of this section, those portions of such county that were once part of Lake Erie and are now filled are declared to be nonnavigable waters of the United States.

(b) Boundaries

The portion of Erie County, New York, referred to in subsection (a) of this section is all that tract or parcel of land, situated in the town of Hamburg and the city of Lackawanna, Erie County, New York, being part of Lots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 of the Ogden Gore Tract and part of Lots 23, 24, and 36 of the Buffalo Creek Reservation, Township 10, Range 8 of the Holland Land Company's Survey and more particularly bounded and described as follows:

[Omitted.]

(c) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply to those parts of the areas described in subsection (b) of this section that

¹ So in original. Probably should be “permitted”.

are filled portions of Lake Erie. Any work on these filled portions shall be subject to all applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Expiration date

If, 20 years from December 11, 2000, any area or part thereof described in subsection (a) of this section is not occupied by permanent structures in accordance with the requirements set out in subsection (c) of this section, or if work in connection with any activity permitted in subsection (c) of this section is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 106-541, title III, § 346, Dec. 11, 2000, 114 Stat. 2614.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

The provisions of subsec. (b) of this section, which contain the text of the boundary descriptions, have been omitted. Such provisions appear at 114 Stat. 2614 to 2618.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-541, set out as a note under section 2201 of this title.

§ 59cc. Declaration of nonnavigability of portion of Hudson River, New York

(a) Declaration of nonnavigability

Subject to subsections (c), (d), and (e) of this section, the area described in subsection (b) of this section is declared to be nonnavigable waters of the United States.

(b) Area subject to declaration

The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753;

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a radius of 390.00 feet and a central angle of 22°-05'-50", 150.41 feet to a point of tangency;

Thence north 71°-38'-30" east, 42.70 feet;

Thence south 11°-05'-40" east, 33.46 feet;

Thence south 78°-54'-20" west, 0.50 feet;

Thence south 11°-05'-40" east, 2.50 feet;

Thence north 78°-54'-20" east, 0.50 feet;

Thence south 11°-05'-40" east, 42.40 feet to a point of curvature;

Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 16°-37'-40", 63.85 feet to a point of compound curvature;

Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39'-00", 101.19 feet to another point of compound curvature;

Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32'-03", 97.69 feet to a point of curve intersection;

Thence south 13°-16'-57" east, 50.86 feet to a point of curve intersection;

Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°-16'-57" west, having a radius of 6.00 feet and a central angle of 180°-32'-31", 18.91 feet to a point of curve intersection;

Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37'-11" east, having a radius of 313.40 feet and a central angle of 4°-55'-26", 26.93 feet to a point of curve intersection;

Thence south 70°-41'-45" west, 36.60 feet;

Thence north 13°-45'-00" west, 42.87 feet;

Thence south 76°-15'-00" west, 15.00 feet;

Thence south 13°-45'-00" east, 44.33 feet;

Thence south 70°-41'-45" west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

Thence north 63°-08'-48" west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

Thence north 61°-08'-00" west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Soilan Park as shown on map prepared by The City of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp;

Thence north 77°-35'-20" east, 231.35 feet;

Thence north 12°-24'-40" west, 33.92 feet;

Thence north 54°-49'-00" east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

Thence north 12°-24'-40" west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.26 feet to the point or place of beginning;¹

(c) Determination of public interest

The declaration made in subsection (a) of this section shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds that the proposed project is not in the public interest—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project; and

(2) after consultation with local and regional public officials (including local and regional public planning organizations).

¹ So in original. The semicolon probably should be a period.

(d) Limitation on applicability of declaration**(1) Affected area**

The declaration made in subsection (a) of this section shall apply only to those portions of the area described in subsection (b) of this section which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) Application of other laws

Notwithstanding subsection (a) of this section, all activities conducted in the area described in subsection (b) of this section are subject to all Federal laws which apply to such activities, including—

- (A) sections 401 and 403 of this title;
- (B) section 1344 of this title; and
- (C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Expiration date

The declaration made in subsection (a) of this section shall expire—

- (1) on the date which is 6 years after December 18, 1991, if work on the proposed project to be performed in the area described in subsection (b) of this section is not commenced before such date; or
- (2) on the date which is 20 years after December 18, 1991, for any portion of the area described in subsection (b) of this section which on such date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(f) "Proposed project" defined

For the purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

- (1) the structure located in the area described in subsection (b) of this section, commonly referred to as Pier A; and
- (2) the area surrounding such structure.

(Pub. L. 102-240, title I, §1078, Dec. 18, 1991, 105 Stat. 2015.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(2)(C), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59dd. Declaration of nonnavigability of portions of Cleveland Harbor, Ohio**(a) to (c) Omitted****(d) Area to be declared nonnavigable; public interest**

Unless the Secretary of the Army finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Cleveland Harbor, Ohio, described below, are not in the public interest then, subject to subsections (e) and (f) of this section, those portions of such Harbor, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the City of Cleveland, Cuyahoga County and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue, N.E., (70 feet wide) at Cleveland Regional Geodetic Survey Grid System, (CRGS) coordinates N92,679.734, E86,085.955;

Thence south 56°-06'-52" west on the centerline of relocated Erieside Avenue, N.E., a distance of 89.50 feet to a drill hole set.

Thence north 33°-53'-08" west a distance of 35.00 feet to a drill hole set on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., said point being the true place of beginning of the parcel herein described.

Thence south 56°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 23.39 feet to a 5/8 inch re-bar set;

Thence southwesterly on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., along the arc of a curve to the left with a radius of 335.00 feet, and whose chord bears south 42°-36'-52" west 156.41 feet, an arc distance of 157.87 feet to a 5/8 inch re-bar set;

Thence south 29°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 119.39 feet to a 5/8 inch re-bar set;

Thence southwesterly on the northwesterly right-of-way of relocated Erieside Avenue, N.E., along the arc of a curve to the right with a radius of 665.00 feet, and whose chord bears south 32°-22'-08" west 75.50 feet, an arc distance of 75.54 feet to a 5/8 inch re-bar set;

Thence north 33°-53'-08" west a distance of 279.31 feet to a drill hole set;

Thence south 56°-06'-52" west a distance of 37.89 feet to a drill hole set;

Thence north 33°-53'-08" west a distance of 127.28 feet to a point;

Thence north 11°-06'-52" east a distance of 225.00 feet to a point;

Thence south 78°-53'-08" east a distance of 150.00 feet to a drill hole set;

Thence north 11°-06'-52" east a distance of 32.99 feet to a drill hole set;

Thence north 33°-53'-08" east a distance of 46.96 feet to a drill hole set;

Thence north 56°-06'-52" east a distance of 140.36 feet to a drill hole set on the southwesterly right-of-way line of East 9th Street;

Thence south 33°-53'-08" east on the southwesterly right-of-way line of East 9th Street a distance of 368.79 feet to a drill hole set;

Thence southwesterly along the arc of a curve to the right with a radius of 40.00 feet, and whose chord bears south 11°-06'-52" west 56.57 feet, an arc distance of 62.83 feet to the true place of beginning containing 174,764 square feet (4.012 acres) more or less.

(e) Limits on applicability; regulatory requirements

The declaration under subsection (d) of this section shall apply only to those parts of the

areas described in subsection (d) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(f) Expiration date

If, 20 years from December 18, 1991, any area or part thereof described in subsection (d) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (e) of this section, or if work in connection with any activity permitted in subsection (e) of this section is not commenced within 5 years after issuance of such permit, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 102-240, title I, §1079, Dec. 18, 1991, 105 Stat. 2017.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

Section is comprised of section 1079 of Pub. L. 102-240. Subsections (a), (b), and (c) of section 1079 of Pub. L. 102-240 provided for deauthorization of a portion of a project for harbor modification of Cleveland Harbor which was authorized by section 202(a) of the Water Resources Development Act of 1986, Pub. L. 99-662, title II, Nov. 17, 1986, 100 Stat. 4095, which is not classified to the Code.

§ 59ee. Portion of Sacramento River Barge Canal declared to not be navigable waters of United States

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

(Pub. L. 102-241, §34, Dec. 19, 1991, 105 Stat. 2223.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

§ 59ee-1. Declaration of nonnavigability for portion of Sacramento Deep Water Ship Channel

All waters within such portion of the project are declared to be nonnavigable waters of the United States solely for the purposes of the Gen-

eral Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 401 of this title.

(Pub. L. 106-541, title III, §347(a)(2), Dec. 11, 2000, 114 Stat. 2618.)

REFERENCES IN TEXT

“Such portion of the project”, referred to in text, means “The portion of the project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), beginning from the confluence of the Sacramento River and the Barge Canal to a point 3,300 feet west of the William G. Stone Lock western gate (including the William G. Stone Lock and the Bascule Bridge and Barge Canal).” See first sentence of section 347(a)(2) of Pub. L. 106-541, Dec. 11, 2000, 114 Stat. 2618.

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

CODIFICATION

Section is comprised of the last sentence of section 347(a)(2) of Pub. L. 106-541.

§ 59ff. Declaration of nonnavigability for portions of Pelican Island, Texas

(a) Descriptions of nonnavigable areas

Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States:

(1) to (5) Omitted.

(b) Exceptions

Notwithstanding the declaration under subsection (a) of this section, the following portions of Pelican Island, Texas, within those lands described in subsection (a) of this section shall remain navigable waters of the United States:

(1) to (3) Omitted.

(c) Requirement that areas be improved

The declaration under subsection (a) of this section shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(d) Expiration

If, 20 years from December 19, 1991, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within five years after issuance of any permits required to be obtained

under subsection (c) of this section, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 102-241, § 52, Dec. 19, 1991, 105 Stat. 2228.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

The text of the boundary descriptions contained in pars. (1) to (5) of subsec. (a) and pars. (1) to (3) of subsec. (b), which is not set out in the Code, appears at 105 Stat. 2228 to 2231.

§ 59gg. Declaration of nonnavigability for portions of Cuyahoga County, Ohio

(a) Area to be declared nonnavigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of the county of Cuyahoga, Ohio, described as follows, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of such county, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the city of Cleveland, county of Cuyahoga, and State of Ohio, T7N, R13W, and known as being a part of original two acre lots numbers 16, 17, 18, 19, and 20 and the northerly extensions thereof, and being more fully described as follows:

Beginning at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of Relocated Erieside Avenue, N.E. (70 feet wide); thence south 56 degrees 06 minutes 52 seconds west on the centerline of Relocated Erieside Avenue, N.E., a distance of 112.89 feet to a point; thence north 33 degrees 53 minutes 08 seconds west a distance of 35.00 feet to a 5/8-inch rebar on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E.; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 335.00 feet and whose chord bears south 42 degrees 36 minutes 52 seconds west 156.41 feet, an arc distance of 157.87 feet to a 5/8-inch rebar; thence south 29 degrees 06 minutes 52 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 119.39 feet to a 5/8-inch rebar; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 39 degrees, 49 minutes 33 seconds west 247.19 feet, an arc distance of 248.64 feet to a 5/8-inch rebar and the true place of beginning of the parcel herein described; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Ave-

nue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 53 degrees, 17 minutes 33 seconds west 64.05 feet, an arc distance of 64.08 feet to a 5/8-rebar set; thence south 56 degrees 03 minutes 30 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 248.38 feet to a 5/8-rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 265.00 feet and whose chord bears north 79 degrees 02 minutes 42 seconds west 374.09 feet, an arc distance of 415.31 feet to a drill hole set; thence north 34 degrees 08 minutes 55 seconds west on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 505.30 feet to a 5/8-inch rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 112.00 feet and whose chord bears north 40 degrees 32 minutes 41 seconds west 24.95 feet, an arc distance of 25.01 feet to a drill hole set on the southerly right-of-way line of former Erieside Avenue, as vacated by city of Cleveland Ordinance No. 1100-87, passed June 16, 1987; thence northeasterly on the former right-of-way line along the arc of a curve to the right, with a radius of 515.00 feet and whose chord bears north 75 degrees 36 minutes 18 seconds east 136.45 feet, an arc distance of 136.85 feet to a 5/8-inch rebar set; thence north 86 degrees 13 minutes 04 seconds east on said former right-of-way line a distance of 294.57 feet to a 5/8-inch rebar set; thence north 52 degrees 57 minutes 23 seconds east on said former right-of-way line a distance of 56.98 feet to a 5/8-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 244.65 feet to a 5/8-inch rebar set; thence south 78 degrees 53 minutes 08 seconds east a distance of 105.04 feet to a 5/8-inch rebar set; thence north 56 degrees 06 minutes 52 seconds east a distance of 70.75 feet to a 5/8-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 274.74 feet to the true place of beginning containing 325,706 square feet (7.477 acres) more or less.

(b) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(c) Expiration date

If, 20 years from October 31, 1992, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set forth in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) of this section is not commenced

within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 102-580, title III, §335, Oct. 31, 1992, 106 Stat. 4853.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

§ 59hh. Declaration of nonnavigability for portion of Pelican Island, Texas

(a) In general

The Secretary of the Army is authorized to convey to the City¹ of Galveston, Texas, fee simple absolute title to all or any part of a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City¹ of Galveston, Galveston County, Texas, being part of the old Fort San Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of subsection (d) of this section. Such conveyance shall only be made by the Secretary of the Army upon the agreement of the Secretary and the City¹ as to all compensation due herein.

(b) Compensation for conveyance

(1) In general

Upon receipt of compensation from the city of Galveston, the Secretary shall convey the parcel, or any part of the parcel, as described in subsection (a) of this section.

(2) Full parcel

If the full 605-acre parcel is conveyed, the compensation shall be—

(A) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, city of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States, with the fair market value of the parcel being determined in accordance with subsection (d) of this section; and

(B) payment to the United States of an amount equal to the difference between the fair market value of the parcel to be conveyed under subsection (a) of this section and the fair market value of the parcel to be conveyed under subparagraph (A).

(3) Partial parcel

If the conveyance is 125 acres or less, compensation shall be an amount equal to the fair market value of the parcel to be conveyed,

with the fair market value of the parcel being determined in accordance with subsection (d) of this section.

(c) Disposition of spoil

Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement (LCA) between the United States of America and the City¹ of Galveston dated October 18, 1973, as amended. Upon conveyance of the parcel, or any part of the parcel, described in subsection (a) of this section, the Department of the Army shall be compensated directly for the present value of the total costs to the Department for disposal of dredge material and site preparation pursuant to the LCA, if any,² in excess of the present value of the total costs that would have been incurred if this conveyance had not been made.

(d) Determination of fair market value

The fair market value of the land to be conveyed pursuant to subsections (a) and (b) of this section shall be determined by independent appraisers using the market value method.

(e) Navigational servitude

(1) Declaration of nonnavigability; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the parcel described in subsection (a) of this section are not in the public interest then, subject to paragraphs (2) and (3), such parcel is declared to be nonnavigable waters of the United States.

(2) Limits on applicability; regulatory requirements

The declaration under paragraph (1) shall apply only to those parts of the parcel described in subsection (a) of this section which are or will be bulkheaded or filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(3) Expiration date

If, 20 years after October 28, 1993, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in paragraph (2), or if work in connection with any activity permitted in paragraph (2) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(f) Survey and study

The 605-acre parcel and the 564-acre parcel shall be surveyed and further legally described prior to conveyance. Not later than 60 days following October 28, 1993, if he deems it necessary,

¹ So in original. Probably should not be capitalized.

² So in original.

the Secretary of the Army shall complete a review of the applicability of section 1344 of this title to the said parcels.

(Pub. L. 103-126, title I, §108, Oct. 28, 1993, 107 Stat. 1320; Pub. L. 106-53, title V, §585, Aug. 17, 1999, 113 Stat. 377.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-53, §585(1), inserted “all or any part of” after “absolute title to” in first sentence.

Subsec. (b). Pub. L. 106-53, §585(2), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “Upon receipt of compensation from the City of Galveston, the Secretary shall convey the parcel as described in subsection (a) of this section. Such compensation shall include—

“(1) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, City of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States. The fair market value of such parcel will be determined in accordance with the provision of subsection (d) of this section; and

“(2) payment to the United States of an amount equal to the difference of the fair market value of the parcel to be conveyed pursuant to subsection (a) of this section and the fair market value of the parcel to be conveyed pursuant to paragraph (1) of this subsection.”

Subsec. (c). Pub. L. 106-53, §585(3), in second sentence, inserted “, or any part of the parcel,” after “parcel” and “, if any,” after “LCA”.

§ 59ii. Declaration of nonnavigability of a portion of the canal known as the James River and Kanawha Canal in Richmond, Virginia

(a) Canal declared nonnavigable

The portion of the canal known as the James River and Kanawha Canal in Richmond, Virginia, located between the Great Ship Lock on the east and the limits of the City of Richmond on the west is hereby declared to be a nonnavigable waterway of the United States for purposes of subtitle II of title 46.

(b) Ensuring public safety

The Secretary of Transportation shall provide such technical advice, information, and assistance as the City of Richmond, Virginia, or its designee may request to insure that the vessels operating on the waters declared nonnavigable by subsection (a) of this section are built, maintained, and operated in a manner consistent with protecting public safety.

(c) Termination of declaration

(1) In general

The Secretary of Transportation may terminate the effectiveness of the declaration made by subsection (a) of this section by publishing a determination that vessels operating on the waters declared nonnavigable by subsection

(a) of this section have not been built, maintained, and operated in a manner consistent with protecting public safety.

(2) Public input

Before making a determination under this subsection, the Secretary of Transportation shall—

(A) consult with appropriate State and local government officials regarding whether such a determination is necessary to protect public safety and will serve the public interest; and

(B) provide to persons who might be adversely affected by the determination the opportunity for comment and a hearing on whether such action is necessary to protect public safety and will serve the public interest.

(Pub. L. 106-32, §2, June 1, 1999, 113 Stat. 115.)

FINDINGS

Pub. L. 106-32, §1, June 1, 1999, 113 Stat. 115, provided that: “The Congress finds the following:

“(1) The canal known as the James River and Kanawha Canal played an important part in the economic development of the Commonwealth of Virginia and the City of Richmond.

“(2) The canal ceased to operate as a functioning waterway in the conduct of commerce in the late 1800s.

“(3) Portions of the canal have been found by a Federal district court to be nonnavigable.

“(4) The restored portion of the canal will be utilized to provide entertainment and education to visitors and will play an important part in the economic development of downtown Richmond.

“(5) The restored portion of the canal will not be utilized for general public boating, and will be restricted to activities similar to those conducted on similar waters in San Antonio, Texas.

“(6) The continued classification of the canal as a navigable waterway based upon historic usage that ceased more than 100 years ago does not serve the public interest and is unnecessary to protect public safety.

“(7) Congressional action is required to clarify that the canal is no longer to be considered a navigable waterway for purposes of subtitle II of title 46, United States Code.”

§ 59jj. Designation of nonnavigability for portions of Gloucester County, New Jersey

(a) Designation

(1) In general

The Secretary of the Army (referred to in section¹ as the “Secretary”) shall designate as nonnavigable the areas described in paragraph (3)² unless the Secretary, after consultation with local and regional public officials (including local and regional planning organizations), makes a determination that 1 or more projects proposed to be carried out in 1 or more areas described in paragraph (2) are not in the public interest.

(2) Description of areas

The areas referred to in paragraph (1) are certain parcels of property situated in the West Deptford Township, Gloucester County,

¹ So in original. Probably should be preceded by “this”.

² So in original. Probably should be paragraph “(2)”.

New Jersey, as depicted on Tax Assessment Map #26, Block #328, Lots #1, 1.03, 1.08, and 1.09, more fully described as follows:

(A) Beginning at the point in the easterly line of Church Street (49.50 feet wide), said beginning point being the following 2 courses from the intersection of the centerline of Church Street with the curved northerly right-of-way line of Pennsylvania-Reading Seashore Lines Railroad (66.00 feet wide)—

- (i) along said centerline of Church Street N. 11°28'50" E. 38.56 feet; thence
- (ii) along the same N. 61°28'35" E. 32.31 feet to the point of beginning.

(B) Said beginning point also being the end of the thirteenth course and from said beginning point runs; thence, along the aforementioned³ Easterly line of Church Street—

- (i) N. 11°28'50" E. 1052.14 feet; thence
- (ii) crossing Church Street, N. 34°19'51" W. 1590.16 feet; thence
- (iii) N. 27°56'37" W. 3674.36 feet; thence
- (iv) N. 35°33'54" W. 975.59 feet; thence
- (v) N. 57°04'39" W. 481.04 feet; thence
- (vi) N. 36°22'55" W. 870.00 feet to a point in the Pierhead and Bulkhead Line along the Southeasterly shore of the Delaware River; thence
- (vii) along the same line N. 53°37'05" E. 1256.19 feet; thence
- (viii) still along the same, N. 86°10'29" E. 1692.61 feet; thence, still along the same the following thirteenth courses
- (ix) S. 67°44'20" E. 1090.00 feet to a point in the Pierhead and Bulkhead Line along the Southwesterly shore of Woodbury Creek; thence
- (x) S. 39°44'20" E. 507.10 feet; thence
- (xi) S. 31°01'38" E. 1062.95 feet; thence
- (xii) S. 34°34'20" E. 475.00 feet; thence
- (xiii) S. 32°20'28" E. 254.18 feet; thence
- (xiv) S. 52°55'49" E. 964.95 feet; thence
- (xv) S. 56°24'40" E. 366.60 feet; thence
- (xvi) S. 80°31'50" E. 100.51 feet; thence
- (xvii) N. 75°30'00" E. 120.00 feet; thence
- (xviii) N. 53°09'00" E. 486.50 feet; thence
- (xix) N. 81°18'00" E. 132.00 feet; thence
- (xx) S. 56°35'00" E. 115.11 feet; thence
- (xxi) S. 42°00'00" E. 271.00 feet; thence
- (xxii) S. 48°30'00" E. 287.13 feet to a point in the Northwesterly line of Grove Avenue (59.75 feet wide); thence
- (xxiii) S. 23°09'50" W. 4120.49 feet; thence
- (xxiv) N. 66°50'10" W. 251.78 feet; thence
- (xxv) S. 36°05'20" E. 228.64 feet; thence
- (xxvi) S. 58°53'00" W. 1158.36 feet to a point in the Southwesterly line of said River Lane; thence
- (xxvii) S. 41°31'35" E. 113.50 feet; thence
- (xxviii) S. 61°28'35" W. 863.52 feet to the point of beginning.

(C)(i) Except as provided in clause (ii), beginning at a point in the centerline of Church Street (49.50 feet wide) where the same is intersected by the curved northerly line of Pennsylvania-Reading Seashore Lines

Railroad right-of-way (66.00 feet wide), along that Railroad, on a curve to the left, having a radius of 1465.69 feet, an arc distance of 1132.14 feet—

- (I) N. 88°45'47" W. 1104.21 feet; thence
- (II) S. 69°06'30" W. 1758.95 feet; thence
- (III) N. 23°04'43" W. 600.19 feet; thence
- (IV) N. 19°15'32" W. 3004.57 feet; thence
- (V) N. 44°52'41" W. 897.74 feet; thence
- (VI) N. 32°26'05" W. 2765.99 feet to a point in the Pierhead and Bulkhead Line along the Southeasterly shore of the Delaware River; thence
- (VII) N. 53°37'05" E. 2770.00 feet; thence
- (VIII) S. 36°22'55" E. 870.00 feet; thence
- (IX) S. 57°04'39" E. 481.04 feet; thence
- (X) S. 35°33'54" E. 975.59 feet; thence
- (XI) S. 27°56'37" E. 3674.36 feet; thence
- (XII) crossing Church Street, S. 34°19'51" E. 1590.16 feet to a point in the easterly line of Church Street; thence
- (XIII) S. 11°28'50" W. 1052.14 feet; thence
- (XIV) S. 61°28'35" W. 32.31 feet; thence
- (XV) S. 11°28'50" W. 38.56 feet to the point of beginning.

(ii) The parcel described in clause (i) does not include the parcel beginning at the point in the centerline of Church Street (49.50 feet wide), that point being N. 11°28'50" E. 796.36 feet, measured along the centerline, from its intersection with the curved northerly right-of-way line of Pennsylvania-Reading Seashore Lines Railroad (66.00 feet wide)—

- (I) N. 78°27'40" W. 118.47 feet; thence
- (II) N. 15°48'40" W. 120.51 feet; thence
- (III) N. 77°53'00" E. 189.58 feet to a point in the centerline of Church Street; thence
- (IV) S. 11°28'50" W. 183.10 feet to the point of beginning.

(b) Limits on applicability; regulatory requirements

(1) In general

The designation under subsection (a)(1) of this section shall apply to those parts of the areas described in subsection (a) of this section that are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities.

(2) Applicable law

All activities described in paragraph (1) shall be subject to all applicable Federal law, including—

- (A) the Act of March 3, 1899 (30 Stat. 1121, chapter 425);
- (B) section 1344 of this title; and
- (C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) Termination of designation

If, on the date that is 20 years after November 12, 2001, any area or portion of an area described in subsection (a)(3)⁴ of this section is not bulkheaded, filled, or otherwise occupied by permanent structures (including marina facilities) in accordance with subsection (b) of this section, or if work in connection with any activity authorized under subsection (b) of this section is

³ So in original. Probably should be "aforementioned".

⁴ So in original. Probably should be "subsection (a)(2)".

not commenced by the date that is 5 years after the date on which permits for the work are issued, the designation of nonnavigability under subsection (a)(1) of this section for that area or portion of an area shall terminate.

(Pub. L. 107–66, title I, §107, Nov. 12, 2001, 115 Stat. 494.)

REFERENCES IN TEXT

Act of March 3, 1899, referred to in subsec. (b)(2)(A), is act Mar. 3, 1899, ch. 425, 30 Stat. 1121, as amended, which enacted sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, 418, 502, 549, and 687 of this title and amended section 686 of this title. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2)(C), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

§ 59kk. Wateree River

For purposes of bridge administration, the portion of the Wateree River in the State of South Carolina, from a point 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of such bridge, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.). (Pub. L. 108–293, title VI, §610, Aug. 9, 2004, 118 Stat. 1058.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

CHAPTER 2—INTERNATIONAL RULES FOR NAVIGATION AT SEA

§§ 61 to 63. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 61, acts Aug. 19, 1890, ch. 802, §1, 26 Stat. 320; Feb. 19, 1895, ch. 102, §1, 28 Stat. 672; June 7, 1897, ch. 4, §1, 30 Stat. 96, related to adoption of rules for navigation on high seas. See section 1602 of this title.

Section 62, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 320, 321, defined “sailing vessel”, “steam vessel”, and “under way”. See section 1601 of this title.

Section 63, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 321, defined “visible”.

EFFECTIVE DATE OF REPEAL

Section 5 of act Oct. 11, 1951, provided that the repeal of these sections is effective upon the taking effect of regulations proclaimed under section 1 of act Oct. 11, 1951. Such regulations were proclaimed by Proc. No. 3030 of Aug. 1, 1953, 18 F.R. 4983, and were to be effective Jan. 1, 1954.

§§ 71 to 84. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 71, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 321, provided that rules concerning lights be complied with from sunset to sunrise.

Section 72, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 321, related to lights of steam vessel under way.

Section 73, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 321, related to lights of vessel towing another vessel or vessels.

Section 74, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 322, related to lights and day signals of vessel not under control and of telegraph cable vessel.

Section 75, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 322, related to lights of sailing vessel under way and of vessel in tow.

Section 76, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 322, related to lights of small vessel under way in bad weather.

Section 77, acts Aug. 19, 1890, ch. 802, §1, 26 Stat. 322; May 28, 1894, ch. 83, 28 Stat. 82, related to substitute lights for small vessel and rowing boats.

Section 78, acts Aug. 19, 1890, ch. 802, §1, 26 Stat. 323; Feb. 19, 1900, ch. 22, §1, 31 Stat. 30, related to lights of pilot vessel on and off duty, and steam pilot vessel.

Section 79, acts Aug. 19, 1890, ch. 802, §1, 26 Stat. 323; May 28, 1894, ch. 83, 28 Stat. 82; Jan. 19, 1907, ch. 300, §1, 34 Stat. 850, related to lights and day signals of fishing vessels and boats.

Section 80, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 324, related to lights on overtaken vessel.

Section 81, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 324, related to lights on vessel at anchor or aground.

Section 82, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 325, authorized additional lights and signals when necessary.

Section 83, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 325, related to special lights for ships of war and recognition signals.

Section 84, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 325, related to day signal of steam vessel under sail.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1954, see note set out under sections 61 to 63 of this title.

§§ 91, 92. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 91, acts Aug. 19, 1890, ch. 802, §1, 26 Stat. 325; June 10, 1896, ch. 401, §1, 29 Stat. 381, related to sound signals for fog.

Section 92, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 325, related to speed in fog.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1954, see note set out under sections 61 to 63 of this title.

§§ 101 to 113. Repealed. Oct. 11, 1951, ch. 495, § 5, 65 Stat. 407

Section 101, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 326, provided suggestion for ascertainment of risk of collision.

Section 102, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 326, related to sailing vessels approaching one another.

Section 103, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 326, related to steam vessels meeting end on.

Section 104, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, related to steam vessels crossing.

Section 105, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, related to steam and sailing vessels meeting.

Section 106, acts Aug. 19, 1890, ch. 802, §1, 26 Stat. 327; May 28, 1894, ch. 83, 28 Stat. 83, provided that vessel having the right-of-way keep course.

Section 107, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, related to crossing ahead of vessel having right-of-way.

Section 108, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, related to duty of steam vessel to slacken speed.

Section 109, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, provided that overtaking vessel keep out of the way of the overtaken vessel, defined “overtaken vessel”.

Section 110, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, related to steam vessel in narrow channel.

Section 111, act Aug. 19, 1890, ch. 802, §1, 26 Stat. 327, related to right of way of fishing vessels or boats, and obstruction of fairways.